

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HAWK VALLEY, INC., a Pennsylvania Corporation, individually and as the representative of a class of similarly-situated persons,	)	
	)	
	)	
	)	
Plaintiff,	)	Case No.: 5:10-CV-00804
	)	
v.	)	Honorable Judge James Knoll Gardner
	)	
	)	Oral Argument Requested
ELAINE G. TAYLOR, and	)	
ENVIRONMENTAL PROCESS	)	
SYSTEMS, INC., and JOHN DOES 1-	)	
10,	)	
	)	
Defendants.	)	

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**PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT**

**ORAL ARGUMENT REQUESTED**

Plaintiff, Hawk Valley, Inc. (“Plaintiff”), moves pursuant to FED. R. CIV. P. 56 for entry of summary judgment in favor of the Class and against Defendants on the single-count Class Action Complaint.

1. Defendants violated the Telephone Consumer Protection Act, 47 U.S.C. § 227 (the “TCPA”), by sending 4,519 advertisements by fax without the targets’ prior express invitation or permission or without the opt-out notice required by the TCPA.

2. The TCPA provides statutory liquidated damages in the amount of \$500 per violation. 47 U.S.C. § 227 (b) (3) (B) (creating private right of action “to recover for actual monetary loss for such violation, or to receive \$500 in damages for

each such violation, whichever is greater”).

4. The Court should award \$2,259,500.00 (\$500 for each of 4,519 TCPA violations) to the class members.

The Court should treble the statutory damages to \$6,778,500.00 pursuant 47 U.S.C. § 227 (b)(3)(B) (trebling for “knowing or willful” violations), because Defendants sent the faxes on purpose, rather than accidentally.

5. Plaintiff has submitted a memorandum in support of this motion.

WHEREFORE, Plaintiff respectfully requests that the Court enter summary judgment in favor of the Class and against Defendants, jointly and severally, in the amount of \$6,778,500.00 for their 4,519 violations of the TCPA, and that the Court award such other and further relief as the Court deems appropriate under the circumstances.

Dated: October 20, 2014.

Respectfully submitted,

HAWK VALLEY, INC., individually and as the  
representative of a class of similarly-situated  
persons

/s/ Alan C. Milstein

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